

THIS DISPOSITION IS NOT
CITABLE AS PRECEDENT OF
THE TTAB

Mailed: November 8, 2002
Paper No. 9
PTH

UNITED STATES PATENT AND TRADEMARK OFFICE

Trademark Trial and Appeal Board

In re Medical Technology Group, Inc.

Serial No. 76/138,174

William A. English and Mikael Havluciyani of Lyon & Lyon for
Medical Technology Group, Inc.

Brian A. Rupp, Trademark Examining Attorney, Law Office 105
(Thomas G. Howell, Managing Attorney).

Before Hairston, Walters and Rogers, Administrative
Trademark Judges.

Opinion by Hairston, Administrative Trademark Judge:

An application has been filed by Medical Technology
Group, Inc. to register INTEGRATED VASCULAR SYSTEMS as a
trademark for the following goods:

Surgical and diagnostic instruments for closing
wound punctures and percutaneous entry sites,
namely introducer sets, sheaths, trocars,
obturators, dilators, guide wires, vascular
clips, staples, plugs, sutures, closure devices

for closing wound punctures and percutaneous entry sites, clip applicators, and instruments for delivering clips and closure devices.¹

The Trademark Examining Attorney has refused registration under Section 2(e)(1) of the Trademark Act, 15 U.S.C. §1052(e)(1), on the ground that applicant's mark, if used on or in connection with the identified goods, would be merely descriptive of them.

When the refusal was made final, applicant appealed. Applicant and the Examining Attorney have filed briefs on the case. No oral hearing was requested.

Applicant contends that the matter sought to be registered is not merely descriptive because it does not directly convey information about the goods. Rather, applicant argues, the mark is at most suggestive. Further, applicant maintains that none of the individual terms which comprise the mark is descriptive of applicant's goods. According to applicant, INTEGRATED is an ambiguous term and does not describe anything about applicant's goods, and VASCULAR and SYSTEMS are not terms that are used to refer to surgery or surgical/diagnostic instruments.

¹ Serial No. 76/138,174, filed September 28, 2000, alleging a bona fide intention to use the mark in commerce.

The Examining Attorney contends that the phrase INTEGRATED VASCULAR SYSTEMS is merely descriptive of the identified goods because it "immediately and precisely indicates to the consumer that applicant is providing a complete set or unit of tools for vascular systems." (Brief, p. 4). In support of the refusal, the Examining Attorney submitted four third-party registrations for marks, which include the term "INTEGRATED," and which were registered for various medical products. In three of the registrations, INTEGRATED is disclaimed; and the fourth registration issued on the Supplemental Register. In addition, the Examining Attorney submitted a number of excerpts from the NEXIS database and websites which include references to "vascular system," "integrated vascular system," "integrated vascular center," and "integrated vascular group." Further, the Examining Attorney submitted the following dictionary definitions of the words "integrate," "vascular," and "system" taken from The American Heritage Dictionary of the English Language (Third edition 1992):

integrate: 1. To make into a whole by bringing all parts together; unify. 2. a. To join with something else; united. b. To make part of a larger unit.

vascular: Of, characterized by, or containing vessels that carry or circulate fluids, such as blood, lymph, or sap through the body of an animal or a plant.

system: 1. A group of interacting, interrelated, or interdependent elements forming a complex whole.

The Examining Attorney bears the burden of showing that a mark is merely descriptive of the relevant goods. In re Merrill Lynch, Pierce, Fenner, and Smith Inc., 828 F.2d 1567, 4 USPQ2d 1141, 1143 (Fed. Cir. 1987). A mark is merely descriptive if it "forthwith conveys an immediate idea of the ingredients, qualities or characteristics of the goods." Abercrombie & Fitch Co. v. Hunting World, Inc., 537 F.2d 4, 189 USPQ 759, 765 (2d Cir. 1986). See also In re Abcor Development Corp., 616 F.2d 525, 200 USPQ 215 (CCPA 1978). Moreover, in order to be descriptive, the mark must immediately convey information as to the ingredients, qualities or characteristics of the goods with a "degree of particularity." Plus Products v. Medical Modalities Associates, Inc. 211 USPQ 1199, 1204-1205 (TTAB 1981). See also In re Diet Tabs, Inc., 231 USPQ 587, 588 (TTAB 1986); Holiday Inns, Inc. v. Monolith Enterprises, 212 USPQ 949, 952 (TTAB 1981); and In re TMS Corp. of the Americas, 200 USPQ 57, 59 (TTAB 1978).

If, however, when the goods are encountered in connection with a particular mark and a multistage reasoning process, or resort to imagination, is required in order to determine the attributes or characteristics of the product, the mark is suggestive rather than merely descriptive. See *In re Abcor Development Corp.*, supra at 218; and *In re Atavio*, 25 USPQ2d 1361, 1362 (TTAB 1992).

In the present case, we find that the mark is only suggestive. We recognize, as evidenced by the third-party registrations, that the word "integrated" may well have descriptive significance as applied to certain medical products. However, none of these registrations covers surgical or diagnostic instruments and, thus, these registrations do not establish that the word "integrated" is descriptive of applicant's type of goods. Further, none of the NEXIS or website excerpts pertain to surgical or diagnostic instruments. In this regard, we note that the two mentions of "integrated vascular system" refer to computer systems for performing vascular diagnostics; the several mentions of "vascular system" refer to the human vascular system; and the two mentions of "integrated vascular center/group" refer to a group of medical specialists.

As to the remaining evidence, namely, the dictionary definitions of the individual words that comprise applicant's mark, we are not persuaded by these that the mark INTEGRATED VASCULAR SYSTEMS, when considered as a whole, is merely descriptive of applicant's goods. As used in the mark, INTEGRATED is an adjective modifying VASCULAR SYSTEMS. However, to the extent that applicant's surgical and diagnostic instruments may be said to be "integrated," as the Examining Attorney argues, it requires some imagination and mental steps to conclude from INTEGRATED VASCULAR SYSTEMS that applicant's goods are a complete set of surgical and diagnostic instruments for use in treating vascular systems.

In sum, the evidence is not sufficient to establish that the mark INTEGRATED VASCULAR SYSTEMS is merely descriptive of applicant's surgical and diagnostic instruments. To the extent that there is any doubt in this case, we have resolved that doubt in applicant's favor, as we are obliged to do.

Decision: The refusal to register is reversed.